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**From:** Knorr, Michele [knorr.michele@epa.gov]  
**Sent:** 2/25/2019 5:25:52 PM  
**To:** Wakefield, Benjamin J. [wakefield.benjamin@epa.gov]; Koch, Erin [Koch.Erin@epa.gov]  
**CC:** Perlis, Robert [Perlis.Robert@epa.gov]  
**Subject:** RE: Press inquiry: Glyphosate on LL GT27 soybeans

I also spoke to Erin. She has the information she needs and will be in touch soon – her computer is updating.

Michele L. Knorr, Attorney  
Pesticides and Toxic Substances Law Office  
Office of General Counsel  
202-564-5631

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**From:** Wakefield, Benjamin J.  
**Sent:** Monday, February 25, 2019 12:16 PM  
**To:** Koch, Erin <Koch.Erin@epa.gov>  
**Cc:** Knorr, Michele <Knorr.Michele@epa.gov>; Perlis, Robert <Perlis.Robert@epa.gov>  
**Subject:** RE: Press inquiry: Glyphosate on LL GT27 soybeans

In case it's helpful, here's the link to the Enlist Duo label (at least from the pre-remand docket): <https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0594-0659>

On the first page, it says:

**For control of annual and perennial weeds and use on Enlist<sup>®</sup> corn, soybeans and cotton; use as a non-selective burndown; chemical fallow; and use as a preplant or preemergence or postemergence herbicide on listed crops, for control of emerged weeds only.**

**2,4-D products that do not contain COLEX-D<sup>®</sup> Technology are not authorized for use in conjunction with Enlist corn, soybeans, and cotton.**

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**From:** Wakefield, Benjamin J.  
**Sent:** Monday, February 25, 2019 12:14 PM  
**To:** Koch, Erin <Koch.Erin@epa.gov>  
**Cc:** Knorr, Michele <Knorr.Michele@epa.gov>; Perlis, Robert <Perlis.Robert@epa.gov>  
**Subject:** RE: Press inquiry: Glyphosate on LL GT27 soybeans

Bob and Michele – I was able to call Erin to discuss this briefly for a couple of minutes after we got off the phone, and just minutes before Erin's noon deadline.

Erin – as we discussed, I think that one important point that the proposed response should make (and currently doesn't) is that if a "generic" glyphosate product is not labeled for over-the-top application to GE-glyphosate-tolerant crops, then it cannot be used outside of the timing on the product's label (even if it wouldn't hurt the crop). In the Enlist Duo world, this is for a couple of reasons: 1) the "choline salt" formulation of 2,4-D in Enlist Duo is lower-drift/volatility than "generic" 2,4-D, so we have less concern for off-site damage (and we've included label conditions about reporting drift,

etc.); and 2) Dow has a “use agreement” with buyers of the “Enlist” GE-seed that says that only Enlist Duo can be used on the GE-crops (although USDA regulates the seed, we did take that into consideration in making our findings).

Also, I have some concern with the language: “if the label states the product is for over-the-top use on glyphosate-resistant soybeans, it can be used on any soybean that has a glyphosate-resistant trait”. That’s because if that is a “use agreement” in place for buyers of GE-seed, then they could be in violation of that agreement if they use a different product (even if labeled for over-the-top use) on that crop. That would be a contract issue between the company and the buyer/user, but just wanted you to be aware of that.

- Ben

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**From:** Koch, Erin  
**Sent:** Monday, February 25, 2019 10:47 AM  
**To:** Wakefield, Benjamin J. <[wakefield.benjamin@epa.gov](mailto:wakefield.benjamin@epa.gov)>  
**Cc:** Knorr, Michele <[Knorr.Michele@epa.gov](mailto:Knorr.Michele@epa.gov)>; Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>  
**Subject:** FW: Press inquiry: Glyphosate on LL GT27 soybeans  
**Importance:** High

Ben –

Can you take a quick look at the proposed response below on whether labels allow use only on some trademarked-trait are limited to only those trademarked seeds? To me the answer looks correct but you may know more about how these labels work. OPP is looking for feedback by noon.

Thanks,  
Erin

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**From:** Teter, Royan  
**Sent:** Monday, February 25, 2019 10:32 AM  
**To:** Koch, Erin <[Koch.Erin@epa.gov](mailto:Koch.Erin@epa.gov)>  
**Cc:** Chiu, Enid <[Chiu.Enid@epa.gov](mailto:Chiu.Enid@epa.gov)>  
**Subject:** FW: Press inquiry: Glyphosate on LL GT27 soybeans  
**Importance:** High

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**From:** Chiu, Enid  
**Sent:** Monday, February 25, 2019 8:25 AM  
**To:** Teter, Royan <[Teter.Royan@epa.gov](mailto:Teter.Royan@epa.gov)>; Baris, Reuben <[Baris.Reuben@epa.gov](mailto:Baris.Reuben@epa.gov)>  
**Cc:** Kenny, Daniel <[Kenny.Dan@epa.gov](mailto:Kenny.Dan@epa.gov)>  
**Subject:** Press inquiry: Glyphosate on LL GT27 soybeans  
**Importance:** High

Hi Royan and Reuben,

I have been working with RD on responding to a press inquiry about whether it is permissible to apply glyphosate to LL GT27 soybeans this year. Royan had mentioned that this topic had also recently come up in your discussions. Please review the RD-approved response below and let me know if you have any additional comments by noon today. Thank you!

**Incoming:**

I need some clarification from EPA on what herbicides are legal to apply to LL GT27 soybeans this year. We are hearing that one company, Bayer, is telling farmers and educators that it is not legal to apply glyphosate post-emergence to LL GT27 soybeans, which were developed to tolerate glyphosate and glufosinate applications, post-emergence.

On the other side, some Extension educators are telling growers that it IS legal to apply glyphosate post-emergence to these soybeans, either alone or in a tank mix with glufosinate. <https://agfaxweedsolutions.com/2019/02/06/ohio-the-ll-gt27-soybean-whats-legal-to-spray-and-when/>

What is EPA's guidance on this issue?

Follow-up from the reporter. Thanks in advance for any update:

“What is EPA's response to this question? I now have Bayer, the registrant of Roundup herbicides, saying that it is not legal for farmers to apply any Roundup products over the top of GT27 soybeans.

Is this correct? Are farmers still permitted to apply generic glyphosate products to GT27 soybeans, post-emergence?”

**Draft Response:**

Users should refer to the labels of specific products for their registered uses. Regardless of the product name (i.e., RoundUp or otherwise), if the label states the product is for over-the-top use on glyphosate-resistant soybeans, it can be used on any soybean that has a glyphosate-resistant trait, including the LL GT27 trait. However, if the label states it is for use on specific traits by name and does not include the LL GT27 as one of those traits, then it could only be used on the traits specifically listed on the label and it would be not be permissible to be used on LL GT27 soybeans. Ultimately, users must comply with the label.

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**Enid Chiu**

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